

ALLEGED VIOLATION: Between 3-12-58 and 4-14-58, tablets which had been fabricated in the State of Illinois from amphetamine sulfate powder that had been shipped in interstate commerce, were dispensed 4 times without a prescription.

DISPOSITION: On 12-18-58, the partnership and defendant Roskin entered a plea of not guilty to all counts and defendant Ginsberg entered a plea of not guilty to 3 counts. Thereafter, defendants filed a motion to dismiss and a motion for a bill of particulars. On 4-3-59, the court filed the following memorandum denying defendants' motion to dismiss:

SULLIVAN, *District Judge*: "This is an indictment under Title 21, U.S.C. § 353, which proscribes the dispensing of a drug without the prescription of a physician, when—

because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug * * *

"Defendants have filed a motion to dismiss on several grounds, the most serious of which is that the quoted phrase is in violation of the due process clause in that it is 'vague, indefinite, uncertain and unintelligible to such an extent that the persons sought to be governed by them cannot determine what conduct on their part constitutes a criminal offense.'

"This contention must be overruled. '* * * the provisions of this Act are sufficiently definite to support a criminal charge for the violation of the Act.' (*United States vs. 2600 State Drugs, Inc.*, 235 F. (2d) 913, (7th Cir., 1956), and cases there cited.

"The motion to dismiss will be denied."

On the same day the court granted the motion for bill of particulars in part.

Thereafter, on 7-22-59, defendants changed this plea of not guilty to nolo contendere, and the partnership was fined \$200 and costs; defendant Roskin was fined \$200; and Ginsberg was fined \$150.

5948. (F.D.C. No. 42439. S. Nos. 15-598/9 P, 15-605 P.)

INFORMATION FILED: 3-10-59, S. Dist. Ohio, against Vernon T. Osborne and Edward P. Cogan, Aberdeen, Ohio.

CHARGE: Between 6-24-58 and 7-11-58, *amphetamine sulfate tablets* were dispensed 3 times without a prescription.

PLEA: Guilty by Osborne to all counts and by Cogan to counts 1 and 2.

DISPOSITION: 4-3-59. Each defendant sentenced to 1 year in jail.

5949. (F.D.C. No. 42424. S. Nos. 5-191/2 P.)

INFORMATION FILED: 1-30-59, E. Dist. N.C., against Legrand Lindsay, Hampstead, N.C.

CHARGE: On 10-27-58, *amphetamine sulfate tablets* were dispensed twice without a prescription.

PLEA: Guilty.

DISPOSITION: 6-18-59. \$100 fine.

5950. (F.D.C. No. 42415. S. Nos. 15-036/7 P, 15-041/3 P.)

INFORMATION FILED: 1-24-59, W. Dist. Ky., against Magdalene Kingery and Hazel Walker, Horse Cave, Ky.

CHARGE: Between 6-4-58 and 7-16-58, *dextro-amphetamine sulfate capsules* were dispensed 4 times and *amphetamine sulfate tablets* were dispensed once without a prescription.

PLEA: Guilty.

DISPOSITION: 5-18-59. \$300 fine against each defendant.

5951. (F.D.C. No. 42403. S. Nos. 1-588/9 P, 1-595/6 P, 1-598 P, 1-694 P, 1-698 P, 1-712/3 P.)

INFORMATION FILED: 3-3-59, N. Dist. Ga., against McKinney's Apothecary (a partnership), Decatur, Ga., and William Wingo McKinney (partner), and John Lewis Pledger (partner).

CHARGE: Between 2-28-58 and 3-25-58, *dextro-amphetamine sulfate tablets* (counts 1, 2, and 3) were dispensed 3 times, and *pentobarbital sodium capsules* (counts 4 and 5), *secobarbital sodium capsules* (counts 6 and 7), and *meprobamate tablets* (counts 8 and 9) were each dispensed twice upon requests for prescription refills without authorization by the prescriber.

PLEA: Nolo contendere by partnership to all counts of the information; by McKinney to counts 2, 3, 5, 6, 7, and 9; and by Pledger to counts 1, 3, 4, 7, 8, and 9.

DISPOSITION: 3-30-59. Partnership—\$9 fine; McKinney—\$171 fine; and Pledger—\$170 fine.

5952. (F.D.C. No. 41143. S. Nos. 39-458 M, 39-462/3 M.)

INFORMATION FILED: 3-28-58, M. Dist. N.C., against Ransom Fred Carswell, Jr., Winston-Salem, N.C.

CHARGE: Between 6-6-57 and 6-18-57, *dextro-amphetamine sulfate tablets* were dispensed 3 times upon request for prescription refills without authorization by the prescriber.

PLEA: Guilty.

DISPOSITION: 5-20-58. \$1,000 fine, sentence of 2 years imprisonment suspended, and probation for 2 years.

5953. (F.D.C. No. 42440. S. Nos. 13-601/2 P, 13-807 P.)

INFORMATION FILED: 3-30-59, E. Dist. Wis., against Hiram L. Brooks, t/a Brooks Drug Store and Brooks Super Drug Store, Marinette, Wis., and Carlton Bohman (clerk).

CHARGE: Between 7-28-58 and 8-20-58, *dextro-amphetamine sulfate tablets* were dispensed once and *Ergoapiol with savin capsules* were dispensed twice without a prescription.

PLEA: Guilty by Brooks to the counts involving *Ergoapiol with savin capsules* and by Bohman to the count involving *dextro-amphetamine sulfate tablets*.

DISPOSITION: 1-11-60. Brooks—\$1,000 fine; Bohman—\$250 fine.

5954. (F.D.C. No. 43237. S. Nos. 1-210 P, 1-219 P, 1-249 P.)

INFORMATION FILED: 9-23-59, S. Dist. Ga., against Clarence L. Powell, t/a Wilkes Drug Co., Collins, Ga.

CHARGE: Between 1-12-59 and 3-30-59, *Dexedrine Sulfate tablets* were dispensed twice and *Dexamyl Spansule capsules* were dispensed once without a prescription.